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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,770	11/21/2001	Melody Vos	5253-04200	1825
29855	7590	05/19/2006	EXAMINER	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			ABEL JALIL, NEVEEN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,770

Applicant(s)

VOS ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/3/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 14-19, 29-34, 44 and 45 is/are rejected.
- 7) ☒ Claim(s) 5-13, and 35-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 3-February-2006, PROSECUTION IS HEREBY REOPENED. *A new ground of rejection is set forth below.*

To avoid abandonment of the application, appellant must exercise one of the following two options:



- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Status of the claims: claims 1-45 are pending.
3. The previous double patenting rejection is hereby withdrawn.

Claim Objections

4. Claims 1, 2, 16, 17, and 31-32 are objected to because of the following informalities:

Claims 1, 2, 16, 17, and 31-32 all have multiple recitation of the intended use "for" (i.e. for managing, for performing) making the functionality following not carry any patentable

weight since it never actually have to take place. Claims should be amended to recite more direct and positive language such as “is” or “managing” or “that”. Correction is required.

Claims 14-15, 29-30, and 44-45 are objected to under 37 CFR 1.75 (c) as being improper dependent claims since they all dependent on Independent claims that recite the optional “or” with respect to “policies or definition”. Therefore, claims 14-15, 29-30, and 44-45, which only recite one instance or the other, do not narrow the scope of the claims as required under 112, fourth paragraph. The recitation of “or” suggestion optionally and make the unselected option never actually taking place, in this instance, if “policies” were selected, the selection of “definition” would never take place and thus claim 14 can’t exist.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 16 – 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

(c) Natural Phenomena Such as Electricity and Magnetism

Claims 16 – 30 recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, *per se*, and as such are nonstatutory natural phenomena. *O’Reilly v. Morse*, 56 U.S. (15 How.) 62, 112 – 14 (1853). See MPEP 2106 IV.B.1. c.

Claims 16 -30, in view of the above cited MPEP sections, are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts.

In Independent claim 16, the preamble recites “a carrier medium” which is defined in the specification on page 11, line 19, to be both tangible and intangible limitation (i.e. radio waves). The applicant needs to limit the preamble to tangible result.

Claim should be amended to recite only tangible embodiments (i.e. computer readable storage medium).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 14-19, 29-34, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillmann et al. *A Goal-driven Auto-Configuration Tool for the Distributed Workflow Management System Mentor-lite* in view of Chandra et al. (U.S. Patent No. 6,397,359 B1).

As to claims 1, 16, and 31, Gillmann et al. discloses

associating one or more policies or definitions with the database for managing database (See page 1, paragraph 3, wherein “policies or definitions” reads on “workflow”);

determining actions to be performed on one or more database to modify the one or more database based on one or more policies or definitions (See page 3, paragraph 5, wherein “actions” reads on server type “starting an activity”);

performing the actions on the database (See page 3, paragraph 5, wherein “actions” reads on server type “starting an activity”);

monitoring results of modifying the database (See page 3, paragraphs 3-4, wherein “monitoring results” reads on “simulation”); and

reconfiguring the one or more policies or definitions associated with the database based on the results of modifying the database (See page 3, paragraph 3, also see page 4, paragraphs 3-4).

Although Gillmann et al. does not explicitly teach database objects, Gillmann et al. teaches database on page 1.

Chandra et al. teaches database objects (See Chandra et al. column 10, lines 60-65).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to implements database objects because it is well known in the database art to use object oriented databases to store information (See Chandra et al. column 9, lines 30-33).

As to claims 2, 17, and 32, Gillmann et al. as modified still does not explicitly teach

automatically determining a schedule for performing the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule.

Gillmann et al. as modified teaches automatic reconfiguration of database (See page 3, paragraph 3).

Chandra et al. teaches automatically determining a schedule for performing the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule (See Chandra et al. column 9, lines 52-55, also see Chandra et al. column 11, lines 32-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement automatic scheduling because it allows for better and more efficient database management (See Chandra et al. column 13, lines 8-10).

As to claims 3, 18, and 33, Gillmann et al. as modified discloses

wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule (See Chandra et al. column 9, lines 52-55, also see Chandra et al. column 11, lines 32-35).

As to claims 4, 19, and 34, Gillmann et al. as modified discloses

confirming the performing the actions on the database objects (See Gillmann et al. page 5, paragraph 1, wherein “confirming” reads on “inserting an action”, also see Chandra et al. column 10, lines 10-17, teaches “list of tasks” to be accomplished on database objects).

As to claims 14, 29, and 44, Gillmann et al. as modified discloses

customizing the one or more definitions (See Gillmann et al. page 3, paragraph 4, wherein “customization” reads on “specified goals”, and see Chandra et al. column 10, lines 36-51, teaches “scheduled task manager” based on user traffic).

As to claims 15, 30, and 45, Gillmann et al. as modified discloses

customizing the one or more policies (See Gillmann et al. page 3, paragraph 4, wherein “customization” reads on “specified goals”, and see Chandra et al. column 10, lines 36-51, teaches “scheduled task manager” based on user traffic).

Allowable Subject Matter

8. Claims 5-13, and 35-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Although no rejections in view of prior art are made with regards to claims 20-28, those claims will be indicated as allowable until after a response to this action has been reviewed, as to the fact that certain changes may not produce allowable claims.

Response to Arguments


10. Applicant's arguments with respect to claims 1-3, 8, 10-15, 20, 22-27, 32 and 34-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Neveen Abel-Jalil
May 14, 2006